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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON**

UNITED STATES OF AMERICA,	}	
	}	
Plaintiff,	}	No. 4:15-cr-06049-EFS-7
	}	
vs.	}	SENTENCING MEMORANDUM
	}	& REQUEST FOR VARIANCE &
GABRIELA MENDOZA VASQUEZ,	}	OBJECTIONS TO THE PSIR
	}	
Defendant.	}	
	}	

**SUMMARY**

On March 6, 2018, the defendant appeared before Senior U.S. District Judge Edward F. Shea and entered a guilty plea to count 2 of the second superseding indictment, Conspiracy to Commit Money Laundering, in violation of 18 U.S.C. § 1956(h).

The defendant agrees with the PSIR that the offense level should be 17. Based upon a criminal history category I and an offense level 17, the sentencing

1 guideline range is 24-30 months. The defendant is also requesting a variance and  
2 recommends a sentence of credit for time served.

3  
4 The defendant respectfully requests a sentence of credit for time served.  
5 This is a sentence that is sufficient, but not greater than necessary, to comply with  
6 the purposes set forth at 18 U.S.C. § 3553 (a)(2). It would:

- 7  
8 - Reflect the seriousness of the offense, promote respect for the law, and  
9 provide just punishment;
- 10 - Afford adequate deterrence to criminal conduct;
- 11 - Protect the public from further crimes of the defendant;
- 12 - Provide the defendant with needed educational or vocational training,  
13 medical care, or other correctional treatment in the most effective manner

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17 **REASONS FOR A SENTENCE OF CREDIT FOR TIME SERVED**

18 The court is required to impose a sentence that is sufficient, but not greater  
19 than is necessary to comply with the purposes set forth at 18 U.S.C. § 3553(a)(2).

20 The defendant agrees with the PSIR that the offense level should be 17.  
21 Based on a criminal history category I, the sentencing range is 24-30 months.

22 The defendant, however, is requesting a variance or a downward departure  
23 based on the extraordinary suffering that the defendant's young children would  
24 endure as a result of being separated from their only biological parent. The  
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1 defendant's children's biological father was murdered in Mexico just prior to the  
2 indictment in this case.  
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9 **SENTENCING FACTORS UNDER 18 U.S.C. § 3553 (a) WARRANT A**  
10 **SENTENCE OF CREDIT FOR TIME SERVED**  
11

12 As this court knows, the Sentencing Guidelines are now advisory, rather  
13 than mandatory. United States v. Booker, 125 S.Ct. 738, 756-57 (2005). While  
14 the Court must consider guideline ranges, the Court is permitted to tailor the  
15 sentence in light of other statutory concerns as well. 18 U.S.C. § 3553 (a)(4).  
16

17 The purpose of the Sentencing Reform Act is to...reflect the seriousness of  
18 the offense, promote respect for the law, provide just punishment, afford adequate  
19 deterrence, [and] protect the public. Booker, at 765; 18 U.S.C. § 3553(a)(2). A  
20 district court must not accord more weight to the Guidelines than to other factors  
21 under § 3553(a).  
22  
23

24 (1) The nature and circumstances of the offense and the history and  
25 characteristics of the defendant.  
26

27 Ms. Mendoza Vasquez fully accepts responsibility for her unlawful conduct.

28 She is remorseful for her actions. She is devastated at the prospect of being

1 separated from her young children. Since the biological Father of the  
2 children was murdered, the children have had to rely solely on the defendant  
3 for all of their emotional, psychological and economic needs. The defendant  
4 is very concerned about the immediate and life-long impact that her children  
5 will suffer as a result of being separated for 2-years or longer.  
6

7  
8 In addition, Ms. Mendoza Vasquez was recently diagnosed with  
9 cervical cancer. She underwent surgery to remove the cancer. She is now  
10 awaiting her first check up to see whether or not additional treatment will  
11 necessary.  
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14 Need for the sentence to reflect the seriousness of the offense, to promote  
15 respect for the law, and to provide just punishment for the offense.  
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18 By accepting responsibility, Ms. Mendoza Vasquez has shown respect for  
19 the law. In this case, the defendant accepted money from her husband who  
20 was drug dealer. The money the defendant received from her husband was  
21 used for living expenses for the defendant and her children. A sentence of  
22 credit for time served is adequate to promote greater respect for the law.  
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25 (3). Need for the sentence to afford adequate deterrence to criminal conduct.

26 Ms. Mendoza Vasquez essentially has no prior criminal history. She is  
27 raising 3 young children on her own. She will be on Supervised Release for 3-  
28

1 years. Credit for time served will afford adequate deterrence to criminal conduct.  
2 An imposition of a lengthier sentence would not accomplish more in this regard.  
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5 (4). Need to protect the public from further crimes of the defendant.

6 In this case the defendant accepted money from her husband. Her husband  
7 is dead. The defendant has no criminal history. We believe a sentence of credit for  
8 time served is sufficient punishment to protect the public.  
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10 (5). Need for sentence to provide the defendant with needed educational or  
11 vocational training, medical care, or other correctional treatment in the  
12 most effective manner.

13 3-years of supervised release is sufficient time to meet these goals.  
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15 (6). The kinds of sentences available.

16 The court may impose any appropriate sentence.  
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18 (7). The advisory guideline range.

19 The advisory guideline range according to U.S. Probation is 24-30 months.  
20 The defendant agrees with these calculations. The defendant is asking for a  
21 variance and would submit that a sentence of credit for time served accomplishes  
22 the goals of the Sentencing Reform Act.  
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26 **OBJECTIONS TO THE PSIR**  
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1 The defendant objects to some of the factual allegations in paragraph 32, page 7  
 2 of the PSIR. She objects to the allegation that she assisted in driving loads of  
 3 narcotics from California to Eastern WA. In regard to the incident report from the  
 4 Pomona Police Department dated April 19, 2012, the defendant submits that she  
 5 was neither arrested or charged with respect to the drugs that were found in the  
 6 vehicle.  
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### 9 10 CONCLUSION

11  
12 For the reasons stated above, Ms. Mendoza Vasquez asks the court to impose a  
 13 sentence of credit for time served.

14 DATED this 4<sup>th</sup> day of September 2018. Respectfully Submitted,  
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16  
17 s/ Ricardo Hernandez  
 18 Ricardo Hernandez  
 19  
 20

### 21 CERTIFICATE OF SERVICE

22 I hereby certify that on September 4, 2018 Stephanie VanMarter, Assistant United  
 23 States Attorney, received a copy of the foregoing via ECF notification.  
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26 s/ Ricardo Hernandez  
 27 Ricardo Hernandez  
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SENTENCING MEMORANDUM